

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 100

BY BUSINESS COMMITTEE

AN ACT

RELATING TO THE IDAHO OPPORTUNITY FUND; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 67-4732 THROUGH 67-4736, IDAHO CODE, TO PROVIDE A SHORT TITLE AND LEGISLATIVE INTENT, TO PROVIDE RULEMAKING AUTHORITY TO THE DIRECTOR OF THE DEPARTMENT OF COMMERCE, TO CREATE THE IDAHO OPPORTUNITY FUND IN THE STATE TREASURY, TO PROVIDE THE MAKEUP OF THE FUND AND TO PROVIDE FOR USE OF THE FUND, TO PROVIDE THAT AGREEMENTS ARE REQUIRED FOR DISBURSEMENT OF FUNDS AND TO PROVIDE FOR ANNUAL REPORTING BY THE DIRECTOR OF THE DEPARTMENT OF COMMERCE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 47, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTIONS, to be known and designated as Sections 67-4732 through 67-4736, Idaho Code, and to read as follows:

67-4732. IDAHO OPPORTUNITY FUND -- SHORT TITLE -- LEGISLATIVE INTENT. Sections 67-4732 through 67-4736, Idaho Code, shall be known and may be cited as the "Idaho Opportunity Fund Act" and also known as "this act." The intent of the Idaho opportunity fund is to promote economic development and provide financial assistance, through the Idaho department of commerce, to retain, expand or attract quality jobs in industries deemed vital to the health of the local and statewide economy.

67-4733. DIRECTOR RULEMAKING AUTHORITY. The director shall promulgate rules pursuant to chapter 52, title 67, Idaho Code, in the furtherance of the objectives of this act.

67-4734. IDAHO OPPORTUNITY FUND. There is hereby created in the state treasury the Idaho opportunity fund. Moneys in the Idaho opportunity fund may be expended by the Idaho department of commerce, pursuant to the provisions of this act, to assist in securing commitments for the retention and expansion of existing businesses and recruitment of new businesses.

(1) Moneys deposited in the fund. The following amounts shall be deposited in the fund:

(a) Any amounts appropriated by the legislature for the fund for purposes described by this section;

(b) Repayment of any moneys originally distributed from the fund that were improperly disbursed pursuant to the company performance agreement or the local government grant agreement; and

(c) Gifts, grants and other donations received for the fund.

(2) Use of funds. Moneys in the Idaho opportunity fund may be allocated to local governments for any lawful purpose consistent with the intent of this act, which purposes shall include:

(a) Construction of or improvements to new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations;

(b) Flood zone or environmental hazard mitigation; and

(c) Construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects.

67-4735. AGREEMENTS REQUIRED AND DISBURSEMENT OF FUNDS. (1) Funds may be disbursed from the Idaho opportunity fund only in accordance with this act and rules adopted by the department, and only in accordance with agreements entered into between the department and one (1) or more local governments, and agreements between the local government and a grantee business as set forth herein.

(2) Company performance agreements. An agreement between a local government and a grantee business, in addition to any requirements in rules adopted by the department, may contain the following provisions:

(a) A commitment to create or retain a specified number of jobs within a specified salary range at a specific location;

(b) A commitment regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained;

(c) A commitment to complete the construction related to the agreed upon capital expenditures;

(d) A provision that a reasonable percentage of the total amount of the grant be withheld until specified performance targets are met;

(e) A provision that a reasonable percentage of the total amount of the grant be withheld until the specified number of jobs are maintained for a specified period of time;

(f) A commitment to provide proof satisfactory to the local government and the director of new jobs created or existing jobs retained and the salary level of those jobs;

(g) A provision that funds received under the agreement may be used only for a purpose as authorized by this act;

(h) A provision allowing the director or the local government to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this act;

(i) A provision establishing the method for determining compliance with the agreement;

(j) A provision establishing a schedule for disbursement of funds under the agreement that allows disbursement of funds only in proportion to the amount of performance completed under the agreement;

(k) A provision requiring repayment of grant funds and corresponding terms for repayment, if applicable, in the event a business subsequently fails to comply with the terms of the agreement;

(l) A provision that any repayments of grant funds required if the performance targets are not achieved may be prorated to reflect a partial attainment of job creation or other performance targets; and

1 (m) Any other lawful provision the director or the local government
2 finds necessary to ensure the proper use of state or local funds.

3 (3) Local government grant agreement. An agreement between the depart-
4 ment and one (1) or more local governments shall contain the following provi-
5 sions:

6 (a) A commitment on the part of the local government to match, in whole
7 or in part, the funds allocated by the department. A local match may
8 include, but shall not be limited to, money, fee waivers, in-kind ser-
9 vices, donation of assets, the provision of infrastructure or a combi-
10 nation thereof. The director of the department of commerce shall have
11 the authority to waive the local match requirement;

12 (b) A provision requiring the local government to recapture any funds
13 to which the local government is entitled under the company performance
14 agreement;

15 (c) A provision requiring repayment from the local government to the
16 department for any funds used for unapproved purposes or disbursed
17 prior to compliance with the company performance agreement or achieve-
18 ment of the job creation or other performance targets;

19 (d) A provision allowing the department access to all records possessed
20 by the local government necessary to ensure compliance with the company
21 performance agreement and with the requirements of this act;

22 (e) A provision establishing a schedule for the disbursement of funds
23 from the Idaho opportunity fund to the local government that reflects
24 the disbursement schedule established in the company performance
25 agreement; and

26 (f) Any other lawful provision the department deems necessary to ensure
27 the proper use of state funds.

28 (4) Disbursement of funds. Funds may be disbursed from the Idaho op-
29 portunity fund to the local government only after the local government has
30 demonstrated that the business has complied with the negotiated terms of the
31 company performance agreement. The department shall disburse funds allo-
32 cated under the Idaho opportunity fund to a local government in accordance
33 with the disbursement schedule established in the local government grant
34 agreement.

35 67-4736. ANNUAL REPORT BY DIRECTOR. The director of the department of
36 commerce shall annually publish a report regarding the state of the Idaho op-
37 portunity fund and cause the same to be made available to the public. The re-
38 port shall contain information on the commitment of funds, disbursement and
39 use of funds, the number of jobs committed and created, the total capital ex-
40 penditures resulting from grant funds and the median wage of total jobs cre-
41 ated as result of grant funds distributed in the prior year. The report is
42 due no later than the last day of September each year. The director shall
43 also provide such report to the governor and the joint finance-appropri-
44 ations committee during each regular session of the Idaho state legislature.
45 In addition, the director of the department of commerce shall provide re-
46 ports on the grant activity and performance to the economic advisory council
47 on a quarterly basis during the year.